

without risk to lives and that the contents will be located to a specified site out of the floodplain in accordance with the temporary development provisions of Article IV.B.11.

**E. Considerations.** In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

1. the danger that materials may be swept onto other lands to the injury of others;
2. the danger to life and property due to flooding or erosion damage, and the safety of access to the property in times of flood for ordinary and emergency vehicles;
3. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. the importance of the services provided by the proposed facility to the community;
5. the necessity to the facility of a waterfront location, where applicable;
6. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7. the compatibility of the proposed use with existing and anticipated development, and the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
8. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site,
9. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges and,
10. agricultural structures must be located in wide, expansive floodplain areas, where no other alternative location for the agricultural structure exists. The applicant must demonstrate that the entire farm acreage, consisting of a contiguous parcel of land on which the structure is to be located, must be in the Special Flood Hazard Area and no other alternative locations for the structure are available.

**F. Findings.** Findings listed above shall be submitted to the appeal board, in writing, and included in the application for a variance. Additionally, comments from the Department of Natural Resources, Land, Water and Conservation Division, State Coordinator's Office, must be taken into account and included in the permit file.

**G. Floodways.** Variances shall not be issued within any designated floodway if any

increase in flood levels during the base flood discharge would result unless a CLOMR is obtained prior to issuance of the variance. In order to insure the project is built in compliance with the CLOMR for which the variance is granted the applicant must provide a bond for 100% of the cost to perform the development.

**H. Conditions.** Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. The following conditions shall apply to all variances:

1. Variances may not be issued when the variance will make the structure in violation of other federal, State, or local laws, regulations, or ordinances.
2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
3. Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
4. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.
5. The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
6. Variances shall not be issued for unpermitted development or other development that is not in compliance with the provisions of this ordinance. Violations must be corrected in accordance with Article III.F.5 of this ordinance.

Article VI. **LEGAL STATUS PROVISIONS**

**A. Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance.** This Ordinance in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted June 4, 1987, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of Fairfield County enacted on June 4, 1987, as amended, which are not reenacted herein, are repealed.

**B. Effect upon Outstanding Building Permits.** Nothing herein contained shall require

any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted by the Chief Building Inspector or his authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of sixty (60) days subsequent to passage of this ordinance, construction or use shall be in conformity with the provisions of this ordinance.

C. **Effective Date.** This ordinance shall become effective upon adoption.

D. **CONFLICTING ORDINANCES**

Fairfield County Ordinance Number 143 is hereby repealed in its entirety. Any other ordinances or parts of ordinances in conflict with this ordinance or inconsistent with its provisions, are hereby repealed or superseded to the extent necessary to give this ordinance full force and effect.

E. **Adoption Certification.**

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I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the County Council of Fairfield County on the day of Sept. 25, 2006.

PASSED:

1<sup>st</sup> Reading: August 28 2006  
2<sup>nd</sup> Reading: September 11 2006  
3<sup>rd</sup> Reading: September 25 2006

WITNESS my hand and the official seal of Fairfield County this the 25th day of September 2006.

David L. Ferguson Sr.  
Signature

